

**THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

DATE 4/28/2023

DISTRICT JUDGE
Amos L. Mazzant, III

COURT REPORTER: Susan Zielie
COURTROOM DEPUTY: Keary Conrad

UNITED STATES OF AMERICA

V.

CASE NUMBER 4:20CR212

DEBRA MERCER-ERWIN (1)

ATTORNEY FOR GOVERNMENT	ATTORNEY FOR DEFENDANT
Ernest Gonzalez and Lesley Brooks, AUSA	Matthew Cyran, Joe White, Kate White

On this day, came the parties by their attorneys and the following proceedings were held in Sherman, TX:

TIME:	MINUTES: Jury Trial – Day 13
8:21 a.m.	Court in session. Court notes appearance of counsel.
8:22 a.m.	Jury seated.
8:23 a.m.	Defendant is reminded she is still under oath. Defendant's counsel, Joe White continues direct examination of Defendant Debra Mercer-Erwin.
8:27 a.m.	Defendant's counsel, Joe White offers Defendant's Exhibit 4b. No objection. Defendant's Exhibit 4b is admitted.
8:36 a.m.	Bench conference.
8:40 a.m.	Defendant's counsel, Joe White continues direct examination of Debra Mercer-Erwin.
8:42 a.m.	Pass the witness. Government AUSA Lesley Brooks begins cross examination of witness Debra Mercer-Erwin.
9:22 a.m.	Government AUSA Lesley Brooks plays clips from Government Exhibit 35a (which was entered by defense yesterday as Defendant's Exhibit 308).
10:13 a.m.	Jury excused for break.
10:15 a.m.	Defendant's counsel advises the Court that he wants to make a record regarding the Government's argumentative tone; taking out of context the recordings. Court denies Defendant's request for bench conference.
10:31 a.m.	Court re-convened. Jury seated.
10:32 a.m.	Government AUSA Lesley Brooks continues cross examination of Debra Mercer-Erwin.
11:44 a.m.	Jury excused for lunch.
11:45 a.m.	Court recess for lunch.
12:45 p.m.	Court re-convened. Jury seated.
12:48 p.m.	Government AUSA Lesley Brooks continues cross examination of Debra Mercer-Erwin.
1:00 p.m.	Defendant's counsel, Joe White begins re-direct examination of Debra Mercer-Erwin.

1:58 p.m.	Defendant's counsel, Joe White requests some exhibit clean up and references Defendant's Exhibits 2a, 2b, 2g, 4a, and 4f.
2:02 p.m.	Defendant's counsel, Joe White moves for the admission of Defendant's Exhibit 2a. Government objection to relevance. Objection sustained.
2:03 p.m.	Defendant's counsel, Joe White moves for the admission of Defendant's Exhibit 2b. No objection. Defendant's Exhibit 2b is admitted.
2:06 p.m.	Defendant's counsel, Joe White moves for the admission of Defendant's Exhibit 2g. Government objection as to pgs 9-14. Defendant's Exhibit 2g minus pages 9-14 is admitted.
2:08 p.m.	Defendant's counsel, Joe White moves for the admission of Defendant's Exhibit 4a. Government objection to proper foundation.
2:11 p.m.	Defendant's counsel, Joe White moves for the admission of Defendant's Exhibit 4f. No objection. Defendant's Exhibit 4f is admitted.
2:13 p.m.	Defendant's counsel, Joe White moves for the admission of Defendant's Exhibit 4a. Government takes witness on voir dire. No objection. Defendant's Exhibit 4a is admitted.
2:15 p.m.	Pass the witness. Government AUSA Lesley Brooks requests bench conference.
2:20 p.m.	Government AUSA Lesley Brooks begins re-cross of Defendant Debra Mercer-Erwin.
2:34 p.m.	Pass the witness.
2:34 p.m.	Jury excused for break.
2:35 p.m.	Government advises that Mr. McCreary has been released.
2:36 p.m.	Court recess for 15 minutes.
2:50 p.m.	Court re-convened. Court questions why contempt or sanctions should not be imposed on Defendant's counsel. Court admonishes counsel.
2:52 p.m.	Jury seated.
2:52 p.m.	Defendant's counsel, Joe White calls Henry Hoss. Witness placed under oath. Defendant's counsel, Joe White begins direct examination of Henry Hoss.
3:43 p.m.	Pass the witness. Government AUSA Ernest Gonzalez begins cross examination of witness Henry Hoss.
3:50 p.m.	Witness excused.
3:51 p.m.	Defendant rests. Government closes. Defendant closes.
3:51 p.m.	Bench conference.
3:55 p.m.	Jury excused.
3:56 p.m.	Court hears argument regarding Rule 29 motion for acquittal from Defendant's counsel, Matthew Cyran. Court denies the motion.
4:02 p.m.	Court fully admits Defendant's Exhibit 3a and 3e.
4:03 p.m.	Court hears argument from AUSA Ernest Gonzalez regarding instruction to the jury on deliberate ignorance. Court hears response argument from Defendant's counsel, Matthew Cyran.
4:08 p.m.	Court thinks it is appropriate as to the drug charges only and will include it in the jury instructions.
4:09 p.m.	Court hears argument from Defendant's counsel, Matthew Cyran regarding legal advice defense and why the instruction should be included. Court hears response argument from Government AUSA Ernest Gonzalez. The Court will include in the instruction the date of "On or about June 2019".
4:15 p.m.	Court in recess.

5:10 p.m.	Court re-convened.
5:10 p.m.	Parties discuss changes to the Court's formal charge to the jury. Court hears argument from Government regarding advice of counsel instruction and requests addition to that instruction. Court will make that change. No further objections to the charge.
5:13 p.m.	No changes or objections to the verdict form.
5:15 p.m.	Court hears from Government AUSA Lesley Brooks regarding 7d. The Government does not object to the admission of the exhibit so the Court admits Exhibit 7d.
5:17 p.m.	Court adjourned.
	Deft Exhibits Admitted: 2b, 2g (minus pgs. 9-14), 4a, 4b, 4f, 7d

DAVID O'TOOLE, CLERK

BY: Keary Conrad

Courtroom Deputy Clerk